

time frame for the increase in hours above 32 hours per week; and

(3) The Program Coordinator will decide if the request meets the intent of the law and this agency's policy.

§§ 1176.9–1176.99 [Reserved]

PART 1177—CLAIMS COLLECTION

Sec.

1177.1 Purpose and scope.

1177.2 Definitions.

1177.3 Other remedies.

1177.4 Claims involving criminal activity or misconduct.

1177.5 Collection.

1177.6 Notice to debtor.

1177.7 Interest, penalties, and administrative costs.

1177.8 Administrative offset.

1177.9 Use of credit reporting agencies.

1177.10 Collection services.

1177.11 Referral to the Department of Justice or the General Accounting Office.

1177.12 Compromise, suspension and termination.

1177.13 Omissions not a defense.

1177.14–1177.99 [Reserved]

AUTHORITY: 31 U.S.C. 3711, 3716–3719.

SOURCE: 51 FR 20484, June 5, 1986, unless otherwise noted.

§ 1177.1 Purpose and scope.

This part prescribes standards and procedures for officers and employees of the National Endowment for the Humanities who are responsible for the collection and disposition of debts owed to the United States. The authority for this part is the Federal Claims Collection Act of 1966, as amended, 31 U.S.C. 3711 and 3716 through 3719; the Federal Claims Collection Standards at 4 CFR parts 101 through 105, as amended by 49 FR 8889, 5 U.S.C. 552a, and Office of Management and Budget Circular A–129. The activities covered include: collecting claims in any amount; compromising claims, or suspending or terminating the collection of claims that do not exceed \$20,000 exclusive of interest and charges, and referring debts that cannot be disposed of by the Endowment to the Department of Justice or to the General Accounting Office for further administrative action or litigation.

§ 1177.2 Definitions.

For the purpose of this part the following definitions will apply:

(a) *Claim* or *debt* means an amount of property owed to the United States. These include but are not limited to: Overpayments to program beneficiaries; overpayments to contractors and grantees, including overpayments arising from audit disallowances; excessive cash advances to grantees and contractors; and civil penalties and assessments. A debt is overdue or delinquent if it is not paid by the due date specified in the initial notice of the debt (see § 1177.6 of this part) or if the debtor fails to satisfy his or her obligation under a repayment agreement.

(b) *Debtor* means an individual, organization, group, association, partnership, or corporation indebted to the United States, or the person or entity with legal responsibility for assuming the debtor's obligation.

(c) *Endowment* means the National Endowment for the Humanities.

(d) *Administrative offset* means satisfying a debt by withholding money payable by the United States to or held by the United States for a debtor.

§ 1177.3 Other remedies.

The remedies and sanctions available to the National Endowment for the Humanities under this part are not intended to be exclusive. The Chairperson of the National Endowment for the Humanities or his designee may impose other appropriate sanctions upon a debtor for prolonged or repeated failure to pay a debt. For example, the Chairperson or his designee may place the debtor's name on a list of debarred, suspended, or ineligible grantees and contractors, convert the method of payment under a grant from an advance to a reimbursement method, or revoke a grantee's letter of credit. In such cases the debtor will be advised of the Endowment's action.

§ 1177.4 Claims involving criminal activity or misconduct.

(a) A debtor whose indebtedness involves criminal activity such as fraud, embezzlement, theft, or misuse of government funds or property is subject to punishment by fine or imprisonment as well as to a civil claim by the United

§ 1177.5

45 CFR Ch. XI (10–1–07 Edition)

States for compensation for the misappropriated funds. The Endowment will refer these cases to the appropriate law enforcement agency for prosecution.

(b) Debts involving fraud, false, claims, or misrepresentation shall not be compromised, terminated, suspended, or otherwise disposed of under this rule. Only the Department of Justice is authorized to compromise, terminate, suspend, or otherwise dispose of such debts.

§ 1177.5 Collection.

(a) The Endowment will take aggressive action to collect debts and reduce delinquencies. Collection efforts shall include sending to the debtor's last known address a total of three progressively stronger written demands for payment at not more than 30 day intervals. When necessary to protect the Government's interest, written demand may be preceded by other appropriate action, including immediate referral for litigation. Other contact with the debtor or his or her representative or guarantor by telephone, in person and/or in writing may be appropriate to demand prompt payment, to discuss the debtor's position regarding the existence, amount and repayment of the debt, and to inform the debtor of his or her rights and the effect of non-payment or delayed payment. A debtor who disputes a debt must promptly provide available supporting evidence.

(b) If a debtor is involved in insolvency proceedings, the debt will be referred to the appropriate United States Attorney to file a claim. The United States may have a priority over other creditors under 31 U.S.C. 3713.

§ 1177.6 Notice to debtor.

The first written demand for payment must inform the debtor of the following:

(a) The amount and nature of the debt;

(b) The date payment is due, which will generally be 30 days from the date the notice was mailed;

(c) The assessment of interest under § 1177.7 from the date the notice was mailed if payment is not received within the 30 days;

(d) The right to dispute the debt;

(e) The office, address and telephone number that the debtor should contact to discuss repayment and reconsideration of the debt and;

(f) The sanctions available to the National Endowment for the Humanities to collect a delinquent debt including, but not limited to, referral of the debt to a credit reporting agency, a private collection bureau, or the Department of Justice for litigation.

§ 1177.7 Interest, penalties, and administrative costs.

(a) Interest will accrue on all debts from the date when the first notice of the debt and the interest requirement is mailed to the last known address or hand-delivered to the debtor if the debt is not paid within 30 days from the date the first notice was mailed. The Endowment will charge an annual rate of interest that is equal to the average investment rate for the Treasury tax and loan accounts on September 30 of each year, rounded to the nearest whole percentum. This rate, which represents the current value of funds to the United States Treasury, may be revised quarterly by the Secretary of the Treasury and is published by the Secretary of the Treasury annually or quarterly in the FEDERAL REGISTER and the Treasury Financial Manual Bulletins.

(b) The rate of interest initially assessed will remain fixed for the duration of the indebtedness, except that if a debtor defaults on a repayment agreement interest may be set at the Treasury rate in effect on the date a new agreement is executed.

(c) The Endowment shall charge debtors for administrative costs incurred in handling overdue debts.

(d) Interest will not be charged on administrative costs.

(e) The Endowment shall assess a penalty charge, not to exceed 6 per cent per year on debts which have been delinquent for more than 90 days. This charge shall accrue from the date that the debt became delinquent.

(f) The Chairperson or his designee may waive in whole or in part the collection of interest and administrative and penalty charges if determined that collection would be against equity or not in the best interests of the United

National Foundation on the Arts and the Humanities

§ 1177.11

States. The Endowment shall waive the collection of interest on the debt or any part of the debt which is paid within 30 days after the date on which interest began to accrue.

§ 1177.8 Administrative offset.

(a) The Endowment may collect debts owed by administrative offset if:

- (1) The debt is certain in amount;
- (2) Efforts to obtain direct payment have been, or would most likely be unsuccessful, or the Endowment and the debtor agree to the offset;
- (3) Offset is cost effective or has significant deterrent value; and
- (4) Offset is best suited to further and protect the Government's interest.

(b) The Endowment may offset a debt owed to another Federal agency from amounts due or payable by the Endowment to the debtor or request another Federal agency to offset a debt owed to the Endowment;

(c) Prior to initiating administrative offset, the National Endowment for the Humanities will send the debtor written notice of the following:

- (1) The nature and amount of the debt and the agency's intention to collect the debt by offset 30 days from the date the notice was mailed if neither payment nor a satisfactory response is received by that date;
- (2) The debtor's right to an opportunity to submit a good faith alternative repayment schedule to inspect and copy agency records pertaining to the debt, to request a review of the determination of indebtedness; and to enter into a written agreement to repay the debt and;
- (3) The applicable interest.

(d) The National Endowment for the Humanities may effect an administrative offset against a payment to be made to a debtor prior to the completion of the procedures required by paragraph (c) of this section if:

- (1) Failure to offset would substantially prejudice the Government's ability to collect the debt and
- (2) The time before the payment is to be made does not reasonably permit completion of those procedures.

§ 1177.9 Use of credit reporting agencies.

(a) The Endowment may report delinquent accounts to credit reporting agencies consistent with the notice requirements contained in the § 1177.6 of this part. Individual debtors must be given at least 60 days written notice that the debt is overdue and will be reported to a credit reporting agency.

(b) Debts may be reported to consumer or commercial reporting agencies. Consumer reporting agencies are defined in 31 U.S.C. 3701(a)(3) pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f). The Endowment may disclose only an individual's name, address, social security number, and the nature, amount, status and history of the debt and the program under which the claim arose.

§ 1177.10 Collection services.

(a) The Endowment may contract for collection services to recover outstanding debts. The Endowment may refer delinquent debts to private collection agencies listed on the schedule compiled by the General Services Administration. In such contracts, the National Endowment for the Humanities will retain the authority to resolve disputes, compromise claims, terminate or suspend collection, and refer the matter to the Department of Justice or the General Accounting Office.

(b) The contractor shall be subject to the disclosure provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(m)), and to applicable federal and state laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act, 15 U.S.C. 1692. The contractor shall be strictly accountable for all amounts collected.

(c) The contractor shall be required to provide to the Endowment any data contained in its files relating to the debt account upon agency request or upon returning an account to the Endowment for referral to the Department of Justice for litigation.

§ 1177.11 Referral to the Department of Justice or the General Accounting Office.

Debts over \$600 but less than \$100,000 which the Endowment determines can

§ 1177.12

neither be collected nor otherwise disposed of will be referred for litigation to the United States Attorney in whose judicial district the debtor is located. Claims for amounts exceeding \$100,000 shall be referred for litigation to the Commercial Litigation Branch, Civil Division of the Department of Justice.

§ 1177.12 **Compromise, suspension and termination.**

(a) The Chairperson of the National Endowment for the Humanities or his designee may compromise, suspend or terminate the collection of debts where the outstanding principal is not greater than \$20,000. Endowment procedures for writing off outstanding accounts are available to the public.

(b) The Chairperson of the National Endowment for the Humanities may compromise, suspend or terminate collection of debts where the outstanding principal is greater than \$20,000 only with the approval of, or by referral to the United States Attorney or the Department of Justice.

(c) The Chairman of the National Endowment for the Humanities will refer to the General Accounting Office (GAO) debts arising from GAO audit exceptions.

§ 1177.13 **Omissions not a defense.**

Failure to comply with any provisions of this rule may not serve as a defense to any debtor.

§ 1177.14–1177.99 **[Reserved]**

PART 1178—USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Sec.

1178.1 Purpose and scope.

1178.2 Withdrawal of information.

AUTHORITY: 39 U.S.C. 3220.

§ 1178.1 **Purpose and scope.**

(a) The Chairperson of the National Endowment for the Humanities (NEH) may direct the agency to use penalty mail to assist in the location and recovery of missing children. When determined to be appropriate and cost-effective, the National Endowment for the Humanities may print, insert or use any other effective method to affix

45 CFR Ch. XI (10–1–07 Edition)

pictures and biographical data relating to missing children on NEH mail. The contact person for matters related to the implementation of this part is Tracy J. Joselson, Esq. Office of the General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786–0322.

(b) The National Center for Missing and Exploited Children will be the exclusive source from which the National Endowment for the Humanities will obtain photographic and biographical information for dissemination to the public.

(c) It is estimated that the National Endowment for the Humanities will incur no additional costs to implement this program during its initial year. This estimate is based on a review of Endowment mailings that would maximize dissemination of this information.

[51 FR 20974, June 10, 1986]

§ 1178.2 **Withdrawal of information.**

The National Endowment for the Humanities will withdraw or exhaust the supply of all materials bearing the photograph and biographical information of a missing child within a three month period from the date the National Center for Missing and Exploited Children receives notice that the child has been recovered or that the parents or guardian of the child have revoked permission to use the information. The National Center for Missing and Exploited Children will be responsible for immediately notifying the agency contact, in writing, of the need to withdraw or remove this material.

[51 FR 20974, June 10, 1986]

PART 1179—SALARY OFFSET

Sec.

1179.1 Purpose and scope.

1179.2 Definitions.

1179.3 Applicability.

1179.4 Notice requirements.

1179.5 Hearing.

1179.6 Written decision.

1179.7 Coordinating offset with another Federal agency.

1179.8 Procedures for salary offset.

1179.9 Refunds.

1179.10 Statute of limitations.